

## Message Text

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ORIGIN PM-04

INFO OCT-01 EUR-12 IO-13 ISO-00 ERDA-05 CIAE-00 H-02

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SAM-01 SP-02 SS-15 USIA-06 TRSE-00 DODE-00 NSC-05

ACDA-07 OES-06 EB-07 COME-00 EA-07 /109 R

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S/S - FVORTIZ

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R 200025Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY BRUSSELS

USMISSION EC BRUSSELS

INFO AMEMBASSY BONN

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

USMISSION OECD PARIS

USMISSION IAEA VIENNA

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C O N F I D E N T I A L STATE 094887

E.O11652: GDS

TAGS: ENRG, PARM, TECH, BE, EEC

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SUBJECT: BELGIAN CONCERN ABOUT NUCLEAR SUPPLIER UNDER-

TAKING

REFS: A. BRUSSELS 3557, B. STATE 85995 (NOTAL)

1. REF B (REPLY TO EC COMMISSIONER BRUNNER'S QUESTIONS ABOUT SUPPLIER UNDERTAKING AND EC) TOUCHES ON MANY OF BELGIAN CONCERNS REPORTED REF A. DEPARTMENT WOULD LIKE TO STRESS POINT SUGGESTED PARA 5 REF B: RELATION OF NUCLEAR SUPPLIERS GUIDELINES TO EC IS PRIMARILY A MATTER TO BE DETERMINED BY EC MEMBERS WHO HAVE DECIDED TO OBSERVE THE GUIDELINES. WHILE WE CONTINUE TO SUPPORT EC EFFORTS TO COORDINATE NUCLEAR TRADE POLICIES OF MEMBER STATES (AS INDICATED PARA 2 REF B), WE BELIEVE WE MUST AVOID PUTTING OURSELVES IN THE POSITION OF APPEARING TO PRE-EMPT THE PREROGATIVES OF LEADERSHIP ON THIS ISSUE WHICH RIGHTFULLY BELONG TO EC SUPPLIER STATES.

2. IN VIEW OF DEPARTMENT'S JUDGMENT THAT US SHOULD DEFER TO EC MEMBERS ON ISSUE OF GUIDELINES' RELATION TO COMMUNITY, EMBASSY AND MISSION SHOULD LIMIT THEIR RESPONSE TO TALKING POINTS OF REF B, AS APPROPRIATE, IN RESPONDING

TO BELGIAN CONCERNS. FOR EMBASSY AND MISSION INFORMATION, HOWEVER, FOLLOWING ANALYSIS OF CONCERNS RAISED REF A IS PROVIDED FOR BACKGROUND.

A. SALES BY BELGIAN SUBSIDIARIES LOCATED IN NON-ADHERING EC COUNTRIES SHOULD NOT WORK AGAINST BELGIUM'S COMMERCIAL INTERESTS IF BELGIUM WERE BOUND BY THE GUIDELINES, AS PARA 3 REF A SUGGESTS. UNDER GUIDELINES, TRANSFERS FROM BELGIUM TO FOREIGN SUBSIDIARIES WOULD BE SUBJECT TO ASSURANCES AND GUARANTEES INCLUDING CONTROLS ON RETRANSFERS TO THIRD PARTIES, WHICH WOULD PUT THE FOREIGN SUBSIDIARIES ON THE SAME FOOTING AS BELGIAN FIRMS AS FAR AS GUIDELINES REQUIREMENTS ARE CONCERNED. OF COURSE, ANY TRANSFERS TO FOREIGN SUBSIDIARIES WHICH OCCUR PRIOR TO BELGIAN ADOPTION OF THE GUIDELINES WOULD NOT NECESSARILY INVOLVE CONTROLS ON RETRANSFERS, BUT IT IS PROBABLY NOT TOO VENTURESOME TO SUGGEST THAT FEW SIGNIFICANT TRANSFERS ALONG THIS LINE HAVE YET TAKEN PLACE, NOR ARE LIKELY

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TO IN THE IMMEDIATE FUTURE.

B. POSSIBLE DISCRIMINATION AGAINST FOREIGN-OWNED BELGIAN NUCLEAR CONCERN SUGGESTED PARA 4 REF A, WOULD BE DEALT WITH UNDER GUIDELINES PROVISIONS CALLING FOR CONSULTATIONS AMONG ADHERENTS TO GUIDELINES. DIFFERING INTERPRETATIONS OF GUIDELINES, LEADING TO UNFAIR COMMERCIAL PRACTICES, WOULD BE A PRIME MATTER FOR CONSULTATION

LEADING TO RESOLUTION OF DIFFICULTY. INDEED, ONE OF THE MAJOR BENEFITS OF THE EFFORT TO DRAW UP AND ADOPT THE GUIDELINES HAS BEEN THE REMOVAL OF NUCLEAR TRANSFER QUESTIONS FROM THE PURELY COMMERCIAL SPHERE, WITH ITS ATTENDANT ELEMENTS OF COMPETITION AND DIVISIVENESS, TO AN ARENA OF DISCUSSION AND CONSULTATION AMONG SUPPLIER NATIONS.

C. PARA 6 REF A MENTIONS THE DUTCH IN THE CONTEXT OF SUPPORT FOR BELGIAN EC INITIATIVES. EMBASSY AND MISSION MIGHT FIND THE FOLLOWING DUTCH ORAL STATEMENT (MADE AT TIME OF SUBMITTING NOTE OF ADHERENCE TO GUIDELINES) INTERESTING AS A COMMENT ON THE GUIDELINES AS THEY MIGHT BE AFFECTED BY THE TREATY OF ROME:

"THE GOVERNMENT OF THE NETHERLANDS CONSIDERS THE GUIDELINES FOR NUCLEAR TRANSFERS AGREED TO BY PARTICIPANTS IN THE LONDON DISCUSSIONS AS MINIMUM STANDARDS WHICH WILL APPLY TO ALL ITS FUTURE NUCLEAR EXPORTS. THE GOVERNMENT OF THE NETHERLANDS IS PREPARED TO ADOPT MORE STRINGENT CONSTRAINTS WHEN APPROPRIATE.

SO FAR AS TRADE WITHIN THE EUROPEAN COMMUNITY IS CONCERNED, THE GOVERNMENT OF THE NETHERLANDS WILL, WHEN NECESSARY, IMPLEMENT THE GUIDELINES IN THE LIGHT OF ITS COMMITMENTS UNDER THE TREATY OF ROME."

UPON DELIVERY OF SUPPLIER NOTE AND PRESENTATION OF THE ORAL STATEMENT BY DUTCH AMBASSADOR ON MARCH 26, PM DIRECTOR VEST SPECIFICALLY EXPRESSED HIS UNDERSTANDING THAT TREATY OF ROME CONSIDERATIONS WOULD NOT LEAD TO ANY DIMINISHING OF THE GUIDELINES' INTENDED APPLICATION. THE AMBASSADOR REPLIED THAT VEST'S INTERPRETATION IS CORRECT  
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--TREATY OF ROME COMMITMENTS ARE EXPECTED TO LEAD ONLY TO STANDARDS MORE STRICT THAN THOSE CONTEMPLATED BY THE GUIDELINES.

D. PARA 7 REF A INITIATIVE BY BELGIUM WAS SUBJECT OF FYI REMARK IN PARA G, REF B. CONFIRMATION BEING SOUGHT MIGHT HAVE UNDESIRABLE EFFECT OF CALLING ATTENTION TO EC TRADING PRACTICES WHICH MIGHT BE VIEWED AS DISCRIMINATORY BY POTENTIAL CUSTOMERS OUTSIDE EC.

E. PARA 9 REF A, FIRST POINT, DOES NOT SEEM WELL TAKEN. THE GUIDELINES ARE DESIGNED TO COMPLEMENT THE NPT, NOT REPLACE IT. IF FOLLOWED, THEY HAVE THE EFFECT OF REQUIRING SAFEGUARDS AS CONTEMPLATED BY THE NPT ON ALL NUCLEAR TRANSFERS, NOT JUST THOSE TO NPT PARTIES, AND

IN SEVERAL WAYS GO BEYOND NPT REQUIREMENTS, FOR EXAMPLE IN ASSERTING NEEDS FOR BETTER CONTROLS ON ENRICHMENT, REPROCESSING, AND HEAVY WATER PRODUCTION. MOREOVER, THE NON-MANDATORY PROVISIONS CALLING FOR RESTRAINT AND CONSULTATIONS CREATE AN IMPROVED CLIMATE FOR FUTURE PROGRESS IN NON-PROLIFERATION.

F. IN THE MATTERS OF DOMESTIC CONSULTATIONS AND LEGISLATION, AS DISCUSSED IN LAST TWO POINTS IN PARA 9 REF A, THE US FOR ITS PART FORESEES NO DIFFICULTY IN ESTABLISHING IMPROVED EXPORT CONTROL REQUIREMENTS AS A UNILATERAL POLICY DEVELOPMENT. ONLY JAPAN HAS MENTIONED ANY LEGISLATIVE PROBLEMS IN IMPLEMENTING THE GUIDELINES, BUT CONTRARY TO BELGIAN PREFERENCES WISHES TO KEEP THE GUIDELINES CONFIDENTIAL. WE ALSO BELIEVE THAT PRINCIPLES OF GUIDELINES CAN BE ADEQUATELY EXPLAINED TO INDUSTRY WITHOUT BREACHING CONFIDENTIALITY BY SETTING THEM OUT AS UNILATERAL POLICY DECISIONS, AND WOULD SUGGEST THAT OTHER EC SUPPLIERS APPEAR TO HAVE ENCOUNTERED NO DIFFICULTY IN THIS RESPECT; ON THE GENERAL ISSUE OF CONFIDENTIALITY, THE FRENCH, GERMANS AND JAPANESE HAVE PREFERRED NOT TO MAKE THE GUIDELINES PUBLIC. NOW WE HAVE REASON TO BELIEVE THAT THE FRENCH MAY SEE SOME ADVANTAGES IN PUBLICATION, BUT THE GERMANS ARE APPARENTLY STILL OPPOSED. ROBINSON

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## Message Attributes

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